

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARGARET FURLONG, et al.,

Plaintiffs,

v.

PURE GRACE, INC.,
a Delaware Corporation, et al.,

Defendants.

No. CV 07-556-MO

AMENDED ORDER

MOSMAN, J.,

On October 9, 2008, a motion hearing was held on the above captioned matter. At the hearing, I articulated my reasoning for the tentative rulings I issued on the record. I now formally adopt those findings and conclusions for the following motions:

1. Defendants **Callaway** and Presnaya's Motion for Summary Judgment (#86) is GRANTED as to the Breach of Contract claim, and all other claims in this motion are DENIED as moot because Plaintiffs' Motion to Dismiss was granted (#257).
2. Defendants' Motion for Summary Judgment (#190), Copyright Infringement, is GRANTED.

3. Defendants' Motion for Summary Judgment (#197), Breach of Contract, is DENIED as to defendant Goloviznin, and DENIED as moot as to all other defendants. I will provide a further explanation on this ruling at the Pre-Trial Conference.
4. Defendants' Motion for Summary Judgment (#224), Trademark Infringement, is GRANTED.
5. Defendants' Motion for Summary Judgment (#233), Trade Secret Misappropriation, is DENIED.

I now also rule on other pending motions as follows:

1. Plaintiffs' Motion to Dismiss (#257) is GRANTED.
2. Defendant Vityukov's Motion for Summary Judgment (#208) is GRANTED as to Misappropriation of Trade Secrets and Breach of Contract, and DENIED as moot as to Breach of Duty of Loyalty because Plaintiffs' Motion to Dismiss was granted (#257).
3. Plaintiffs' Motion to Dismiss (#266) without prejudice is GRANTED as to Beyond Jordan, Inc., and DENIED as moot as to Aleksandr Vityukov because Defendant's Motion for Summary Judgment was granted (#208).
4. Defendants' Motion to Dismiss and Motion for Summary Judgment (#74) are DENIED as moot because Plaintiffs' Motions to Dismiss were granted (## 222, 257).
5. Defendant Pure Grace's Motion for Summary Judgment (#103) as to Breach of Permanent Injunction is DENIED.
6. Plaintiffs' Motion to Dismiss Counterclaims and Affirmative Defenses (#172) is UNDER ADVISEMENT as to Breach of Permanent Injunction (claim 1), and GRANTED in part as to all other counterclaims (claims 2-6). At the Pre-Trial Conference, the parties should

be prepared to discuss whether a showing of prejudice is required to dismiss an untimely responsive pleading under Federal Rule of Civil Procedure 15.

7. Defendants Motion for Summary Judgment (#182), Unfair Competition Under the Oregon Unfair Trade Practices Act, is DENIED as moot because Plaintiffs' Motion to Dismiss was granted (#222).
8. Defendants' Motion for Summary Judgment (#214), Common Law Unfair Competition, Common Law Unjust Enrichment, is DENIED as moot because Plaintiffs' Motion to Dismiss was granted (#257).
9. Defendants' Motion for Summary Judgment (#217), Trademark Dilution, is DENIED as moot because Plaintiffs' Motion to Dismiss was granted (#257).

IT IS SO ORDERED.

DATED this 31st day of October, 2008.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court